

BOARD OF APPEALS CASE NO. 5305

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BEFORE THE

APPLICANT: Franklin Couch

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ZONING HEARING EXAMINER

REQUEST: Variance to construct a dwelling and deck within the required setback on an 8,000 square foot lot; 3715 Washington Avenue; Abingdon

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OF HARFORD COUNTY

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Hearing Advertised

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Aegis: 11/6/02 & 11/13/02

HEARING DATE: December 30, 2002

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Record: 11/8/02 & 11/15/02

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Franklin L. Couch, Jr., Agent , is requesting a variance, pursuant to Section 267-36B, Table V, of the Harford County Code, to construct a dwelling on a lot less than the required 10,000 square feet (8,000 square feet existing) and to construct the dwelling within the 40 foot rear yard setback (39 feet proposed). The Applicant also seeks a variance, pursuant to Section 267-23C(1)(a)(6), to construct a deck within the required 30 foot rear yard setback (27 feet proposed) in an R2/CR/LDA District.

The subject parcel is located at 3715 Washington Avenue, Abingdon, Maryland 21009, just south of Long Bar harbor Road. The parcel is more particularly identified on Tax Map 62, Grid 4E, Parcel 859. The parcel consists of 0.18 acre (8000 square feet), is zoned R2/Urban Residential and is entirely within the First Election District.

Mr. Richard Burnham appeared as the contract purchaser of the parcel. The witness explained that the subject property was once used as sewerage pumping station by Harford County. A new pumping station has been built on adjacent land and the subject parcel, having reverted back to the owner, is now available for development. The proposal is for construction of a modest size residential dwelling (1000 square feet split foyer design) with a 12-foot deck located on the rear of the home. To the rear is a panhandle lot, one of five panhandle lots that have been developed over the years and which now surround the parcel.

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The Lucky development, which is adjacent to the subject parcel, was developed as Conventional Open Space (COS) property which allows lot sizes as small as 7500 square feet. Because the County used the parcel as a pumping station, it was never developed as COS property and part of the Lucky project. The lot is presently surrounded by single family residential uses and the proposal is consistent with those uses in size and appearance. The witness felt that the parcel could be developed as proposed without adverse impacts to adjoining properties. Further, the witness indicated that no usable home could be built without a variance due to the size and configuration of the parcel.

Mr. Anthony McClune appeared on behalf of the Department of Planning and Zoning. Mr. McClune confirmed that the parcel had been used by Harford County as a sewerage pumping station, a use which has since been abandoned by the County. McClune agreed that the proposed use was compatible with surrounding uses and opined that the proposed variances were consistent with good planning and zoning principles and practices. The witness did not think any adverse impacts would result from a grant of the requests. In conclusion, the witness opined that the parcel was unique in size and, but for the County's former use of the parcel as a pumping station, the lot would have been developed as part of the Lucky development as a COS parcel requiring only 7500 square feet. Had that occurred, no variances would be necessary.

No persons appeared in opposition to the request.

CONCLUSION:

The Applicant, Franklin L. Couch, Jr., is requesting a variance, pursuant to Section 267-36B, Table V, of the Harford County Code, to construct a dwelling on a lot less than the required 10,000 square feet (8,000 square feet existing) and to construct the dwelling within the 40 foot rear yard setback (39 feet proposed). The Applicant also seeks a variance, pursuant to Section 267-23C(1)(a)(6), to construct a deck within the required 30-foot rear yard setback (27 feet proposed) in an R2/CR/LDA District.

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Harford County Code Section 267-11 permits variances and provides:

The Harford County Code, pursuant to 267-11 permits variances and provides:

“Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.**
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest.”**

The Hearing Examiner, for the reasons stated by the Applicant’s witness and the Department of Planning and Zoning, finds that the subject parcel is unique, can be developed as proposed without any material adverse impacts to adjoining parcels or the intent of the Code. Use of the parcel as if it had been developed in conjunction with the Lucky development is consistent with good planning and zoning practice.

The Hearing Examiner recommends approval of the Applicant’s request, subject to the following:

- 1. The Applicant obtain any and all necessary permits and inspections.**
- 2. The setbacks not be further reduced.**

Date JANUARY 27, 2003

**William F. Casey
Zoning Hearing Examiner**